

AMENDMENTS TO THE CLAIMS:

This listing of claims will replace all prior versions and listings of claims in the application:

Claims 1-13 (Canceled)

Claim 14 (Currently Amended): A medical device and delivery system, comprising:

a shape memory alloy element having a restrained shape, a deployed shape and an associated M_d temperature, the shape memory alloy element having been deformed at or above M_d into an at least partially deformed configuration; and

a hollow delivery system holding the at least partially deformed shape memory alloy element in an austenitic state in its restrained shape, ~~the shape memory alloy element being in an austenitic state when in the at least partially deformed configuration.~~

Claim 15 (Previously Presented): The medical device and delivery system of claim 14, wherein the shape memory alloy includes nickel and titanium.

Claim 16 (Previously Presented): The medical device and delivery system of claim 14, wherein the medical device includes a stent.

Claim 17 (Previously Presented): The medical device and delivery system of claim 14, wherein the delivery system includes a catheter.

Claim 18 (Previously Presented): The medical device and delivery system of claim 14, wherein the shape memory alloy does not generate stress-induced martensite from being at least partially deformed into a restrained shape.

Claim 19 (Currently Amended): The medical device and delivery system of claim 14, further comprising a restraint configured to receive the ~~shaped~~ shape memory alloy at a temperature at or above M_d , wherein the shape memory alloy is a tubular member with proximal and distal ends and the restraint is secured around the shape memory alloy in its deformed configuration.

Claim 20 (Previously Presented): The medical device and delivery system of claim 14, wherein the shape memory alloy is for use within a mammalian body or in close proximity to the mammalian body such that the device is at mammalian body temperature.

Claim 21 (Currently Amended): The medical device and delivery system of claim 20, wherein the mammalian body temperature is ~~a-bout~~ about 35 to 40 degrees C.

Claim 22 (Previously Presented): The medical device and delivery system of claim 14, wherein the shape memory alloy has an austenite start temperature (A_s), an austenite finish temperature (A_f), and a martensite deformation temperature (M_d).

Claim 23 (Previously Presented): The medical device and delivery system of claim 22, wherein the shape memory alloy includes the martensite deformation temperature (M_d) of about 50 degrees C or more above the austenite finish temperature (A_f).

Claim 24 (Previously Presented): The medical device and delivery system of claim 14, wherein the shape memory alloy is in an austenitic state at room temperature of about 22 degrees C.